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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/551,745	04/18/2000	Daniel Manuel Dias	AM9-98-080C	2613
7590	03/11/2004		EXAMINER	
John L Rogitz Rogitz & Associates 750 B Street Suite 3120 San Diego, CA 92101			NAMAZI, MEHDI	
			ART UNIT	PAPER NUMBER
			2188	
DATE MAILED: 03/11/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/551,745	Applicant(s) DIAS ET AL.
Examiner Mehdi Namazi	Art Unit 2188	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 15 December 2003.  
2a)  This action is **FINAL**.                  2b)  This action is non-final.  
3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1,3-6,8,11-14,16-18 and 20-22 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1,3,4,6,8,11,13,14,16-18 and 20-22 is/are rejected.

7)  Claim(s) 5 and 12 is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## **Application Papers**

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. In view of the appeal brief filed on December 15, 2003, PROSECUTION IS HEREBY REOPENED. New ground of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000.

Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1, 3, 8, 11, 13, 17, 20, and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Yamato et al. (U.S. Patent No. 5,944,792).

As per claim 1, 8, 11, 17 and 22, Yamato teaches a computer system including plural clients nodes communicating data access requests to one or more storage nodes (col. 7, lines 37-47), comprising: logic means for associating one or more of data access requests with respective priorities, wherein the priorities include time-based deadlines (col. 2, lines 26-32); logic means for sending the data access requests and priorities to the storage nodes (col. 7, lines 59-64); logic means for ordering the data access requests at the storage nodes based on the respective priorities, such that the data access requests are satisfied in consideration of their respective priorities (col. 8, lines 6-12).

As per claims 3, 13, and 20, Yamato teaches logical means for terminating at least one data access request (cols. 3-4, lines 55-3).

#### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4, 14, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamato, and further in view of Pascucci et al. (U.S. Patent No. 5,511,188).

As per claims 4, 14, and 21 Yamato teaches the claimed invention, but fails to teach means for loosely synchronizing the computing and storage nodes with each other.

Pascucci teaches a method of synchronizing a plurality of data bases stored in a network, wherein the network including a plurality of nodes communicating over at least one communication link, and each of the nodes including a storage means for storing at least one of the data bases (claim 1). Therefore, it would have been obvious to one having ordinary skill in the art to modify the work of Yamato because Pascucci teaches synchronizing a plurality of data bases stored in a network, wherein the network including a plurality of nodes communicating over at least one communication link in order to have a faster and without interruption access to any of the storages.

5. Claims 6, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamato, and further in view of Shiobara (U.S. 4,930,121).

As per claims 6, and 16, Yamato teaches the claimed invention, but fails to teach the system is a virtual shared disk system.

Shiobara teaches a plurality of common memories respectively included in the plurality of nodes and each of the common memories having a mutually common address structure, the common memories being connected together to function as a shared virtual memory. Therefore, it would have been obvious to one having ordinary skill in the art to modify the work of Yamato because Shiobara teaches a plurality of

common memories being connected together to function as a shared virtual memory in order to be used in multitasking environment.

***Allowable Subject Matter***

6. Claims 5, and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mehdi Namazi whose telephone number is 703-306-2758. The examiner can normally be reached on Monday-Friday 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mano Padmanabhan can be reached on 703-306-2903. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mano Padmanabhan  
3/8/04

Mano PADMANABHAN  
Supervisory PATENT EXAMINER  
TCL

Mehdi Namazi  
Examiner  
Art Unit 2188

March 7, 2004